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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/639,011	08/15/2000	Olof Larsson	AWAPP002	9984
28436	7590	09/29/2004	EXAMINER	
IP CREATORS P. O. BOX 2789 CUPERTINO, CA 95015			KANG, PAUL H	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/639,011

Applicant(s)

LARSSON ET AL.

Examiner

Paul H Kang

Art Unit

2141

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-11,33-35,39 and 40.

Claim(s) withdrawn from consideration: 12-32 and 36-38.


8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: the arguments presented are not deemed to be persuasive.

The applicants argue in substance that the prior art relied upon in the Final Rejection, specifically Mosseau et al., US Pat. 6,438,585, is not prior art against the present invention and therefore should be withdrawn. The applicants argue "that any in-part subject matter included in the '585 patent and relied on by the Examiner should not be part of the record since the priority date for the in-part matter is the filing date of the '585 patent."

After reviewing the '585 patent, the examiner's reliance on teachings of the '585 patent was proper, therefore the applicants' arguments are not persuasive. The applicant is correct that any in-part matter of a CIP should not be given the priority date of the parent. In this case however, the portions of the '585 patent relied upon by the examiner is not new matter, but teachings found in the parent application (Lazaridis et al, US Pat. 6,219,694) and therefore having a priority date to said parent.

The applicant contends that the Mousseau '585 patent has 4 additional FIGS. 6-9 and the accompanying specification includes added columns of disclosure 14-18, that were relied upon by the examiner in the Final Rejection. The section of '585 relied upon by the examiner that arguably falls into "in-part" teachings was col. 15, line 46 - col. 16, line 60. This excerpt was cited in conjunction with col. 8, lines 8-27 of '585 to show "selecting on the wireless communication device via a communication link a one of the documents provided by the at least one ISP for presentation." See Final Office action, page 2. When reviewing the text of the cited portions of '585, it is clear that col. 8, lines 8-27 alone teach the claimed limitation. Since, even without the "in-part" portion of '585, the prior art of record teaches the invention as claimed, the Final Rejection is proper.


PAUL H. KANG
PRIMARY PATENT EXAMINER